

RECEIVED
CENTRAL FAX CENTER
OCT 24 2007

FAX COVER SHEET

TO

COMPANY

FAX NUMBER 15712738300

FROM charles mirho

DATE 2007-10-24 19:06:00 GMT

RE FSP0149 reply brief

COVER MESSAGE

Attorney Docket Number: FSP0149

Client Reference Number: 260146US

Title: data normalization

Application Number: 09/995,058

Filing Date: Monday, November 26, 2001

First Named Inventor: Schnitzer, Jason K.

Group Art Unit: 2151

Examiner Name: Tran, Nghi

6 pages of Reply Brief

1 page of Certificate of facsimile

1 page of Document transmittal

No virus found in this outgoing message.

Checked by AVG Free Edition.

Version: 7.5.488 / Virus Database: 269.15.3/1082 - Release

Date: 10/20/2007

2:59 PM

THIS PAGE BLANK (USPTO)

WWW.EFAX.COM

RECEIVED
CENTRAL FAX CENTER
OCT 24 2007

CERTIFICATE OF FACSIMILE TRANSMISSION

for

Attorney Docket Number: FSP0149
Client Reference Number: 260146US
Title: data normalization
Application Number: 09/995,058
Filing Date: Monday, November 26, 2001
First Named Inventor: Schnitzer, Jason K.
Group Art Unit: 2151
Examiner Name: Tran, Nghi

I hereby certify that the following is being transmitted via facsimile to telephone number 571-273-8300 on Wednesday, October 24, 2007.

Signature: /Charles A. Mirho/
Charles A. Mirho

Contents of This Correspondence

6 pages of Reply Brief
1 page of Certificate of facsimile
1 page of Document transmittal

TRANSMITTAL LETTER

for

Attorney Docket Number: FSP0149
Client Reference Number: 260146US
Title: data normalization
Application Number: 09/995,058
Filing Date: Monday, November 26, 2001
First Named Inventor: Schnitzer, Jason K.
Group Art Unit: 2151
Examiner Name: Tran, Nghi

To:
Mail Stop Appeal Brief -Patents
Commissioner for Patents
P.O Box 1450
Alexandria, VA, 22313-1450, USA

Contents of This Correspondence

6 pages of Reply Brief
1 page of Certificate of facsimile
1 page of Document transmittal

Submitted by:

Signature: /Charles A. Mirho/
Charles A. Mirho

on Wednesday, October 24, 2007.

Application Number: 09/995,058 – Reply Brief

-1-

REPLY BRIEF

for

Attorney Docket Number: FSP0149

Client Reference Number: 260146US

Title: data normalization

Application Number: 09/995,058

Filing Date: Monday, November 26, 2001

First Named Inventor: Schnitzer, Jason K.

Group Art Unit: 2151

Examiner Name: Tran, Nghi

This Reply Brief addresses the Examiner's Answer mailed on August 24, 2007.

RECEIVED
CENTRAL FAX CENTER
OCT 24 2007

Application Number: 09/995,058 – Reply Brief

-2-

Claims 1 and 8

At col. 5, line 36-58, Dziekan teaches that “device-configuration module 190 is used in manager 100 of the present invention to allow service providers (e.g., 103, 105, . . . , 107) to set specific parameters of the network elements (e.g., 102, 104, . . . , 106) for operation or test purposes. As an example, diagnosis element 160, upon receiving a query from, for example, data service provider 105, can use device-configuration entity 190 to set the network elements (for example, cable modem 102) in a test mode.”

In particular, Dziekan describes configuring network devices into different modes, whereas the claims describe *applying device-specific information to normalize performance metrics*. There is not even any indication in Dziekan that the device configuration module 190 collects and uses device-specific information at all, let alone to process performance metrics.

Agarwal, paragraph 0078 teaches that “the monitored information is also fed to the Aggregator 120, which accumulates and normalizes the metrics in some meaningful fashion. This leads to metrics on the global usage of each resource class, as well as the usage by each customer.”

The Examiner’s Answer responds that the Applicant is not considering the teachings of Dziekan and Agarwal in combination. Quite to the contrary, the Applicant has respectfully pointed out that applying the *device configuration* of Dziekan to the *generic normalizer* of Agarwal would result in a system whereby network devices were configured (according to Dziekan), and performance data was normalized in “some meaningful fashion” (according to Agarwal), but the references don’t combine to a system where device-specific information is used to normalize performance data. Again, this is true at least because configuring devices as taught in Dziekan is not the same thing as obtaining device-specific information; furthermore, someone reading Agarwal would not be led to using device-specific data to perform the normalization merely from the teaching of device configuration in Dziekan.

Agarwal, paragraph 0078 teaches that “this latter usage is compared with the permissible range set in the customer’s service level agreement. Based on these numbers, the Aggregator 120 determines whether any changes are required to the current resource allocation for each customer, and suggests these to the Global Decision Maker 140.”

Application Number: 09/995,058 – Reply Brief

-3-

Thus, Agarwal even suggests that the normalization is according to customer usage, not device-specific information. The description in Agarwal would teach one skilled in the art away from using device-specific information and toward applying customer usage information when normalizing the data.

Application Number: 09/995,058 – Reply Brief

-4-

Claims 3 and 10

Claims 3 and 10 describe that the device-specific information includes at least one of make, model, hardware version, software version, and element settings associated with each of the network elements.

Dziekan, Col. 5, line 36-58 and col. 10, lines 27-57 teaches that “device-configuration entity 190 can also be used by service manager 120 to configure certain pre-defined parameters of the network elements.”

There is no teaching anywhere in either reference of applying make, model, hardware version, software version, or element settings to the normalization of network performance parameters.

The Answer asserts that “this ‘element setting’ information is applied to the normalization of the network performance parameters [Col. 5, line 36-58 and col. 10, lines 27-57]”. The Applicant respectfully asserts that a mere general statement in Dziekan of configuring network elements does not rise to the level of teaching or suggesting normalization of performance metrics using one or more of device make, model, hardware version, software version, and element settings.

Application Number: 09/995,058 – Reply Brief

-5-

Claims 4 and 9

Claims 4 and 9 recite obtaining at least one of Management Information Base objects and command line interface information from the network elements and further to determine the device-specific information from the at least one of Management Information Base objects and command line interface information.

Dziekan, Col. 4, lines 5-34 teaches that “service manager 120 can determine if a service provider is authorized to access management information base (MIB) objects of the network elements and receive reports of the network elements' failures.”

Dziekan teaches accessing the MIB to receive reports of the device's failure. Dziekan does not teach that the MIB is accessed for device-specific information for use in normalizing network performance metrics.

The Applicant respectfully asserts that the entire teachings of Dziekan amount to little more than network elements may be configured with operating parameters. Dziekan does not teach the use of device-specific information in any meaningful way, and especially not specifically in regard to processing performance data. A skilled practitioner reading Dziekan and Agarwal would not be led to applying device-specific information to normalization of performance metrics.

RECEIVED
CENTRAL FAX CENTER
OCT 24 2007

Application Number: 09/995,058 – Reply Brief

-6-

Respectfully Submitted by:

Signature /Charles A. Mirho/
Charles A. Mirho
Reg. 41,199
Attorney for Applicant

Date: 4/26/2007

Address all correspondence to:

FSP LLC

Attn: Charles A Mirho

P.O. Box 890

Vancouver, WA 98666-0890

USA

Phone: 360-737-1748

Fax: 360-294-6426